

DETAILED ACTION

Allowable Subject Matter

The indicated allowability of claims 23, 24, and 26-28 is withdrawn in view of the newly discovered reference(s) to Hayman (US 5503088) and Tomokazu et al. (US 4360993). Rejections based on the newly cited reference(s) follow.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 17-30, 87, and 88 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-26 of U.S. Patent No. 7,131,237 B1. Although the conflicting claims are not identical, they are not

Art Unit: 3600

patentably distinct from each other because all of the limitations in claims 17-30, 87, and 88 are disclosed in claims 1-26 of Patent No. 7,131,237 B1 to Pazar.

Claims 17, 20, 30, 87, 88, 91, 92, and 93 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 11, 13, 16, 29, 35, 36, and 38 of U.S. Patent No. 7,093,396. Although the conflicting claims are not identical, they are not patentably distinct from each other because all of the limitations in claims 17, 20, 30, 87, 88, 91, 92, and 93 are disclosed in claims 11, 13, 16, 29, 35, 36, and 38 of Patent No. 7,093,396 B2 to Pazar.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-23, 25, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chandler et al. (U.S. Patent No. 3,439,461) in view of Semon (U.S. Patent No. 4,697,316) and Hayman (U.S. Patent No. 5,503,088).

Regarding claims 17 and 25, Chandler discloses a method of making a concrete burial vault.

Chandler does not disclose providing a record receptacle; providing archival quality recordation media; recording predetermined information on the recordation

media; sealing the recordation media within the record receptacle; and embedding the record receptacle within a material of the burial vault, including providing at least one groove on the record receptacle, engaging the groove with the material of the vault, and maintaining the position of the receptacle with respect to the vault.

Semon teaches providing a record receptacle on a burial vault; providing archival quality recordation media via scroll; recording predetermined information on the recordation media; sealing the recordation media within the record receptacle; and embedding the record receptacle within a wall of the burial vault (Col 2, Ln 42-45 and Col 3, Ln 20-21).

It is old and well known in the art that objects embedded in concrete may contain irregularities in a wall to help adhesion of concrete to the embedded object. Nonetheless, Hayman teaches providing at least one groove (20, 21) on a receptacle to be embedded in concrete, wherein the groove engages with the concrete material, and maintaining the position of the receptacle with respect to the material.

It would have been obvious to a person having ordinary skill in the art at the time of the Applicant's invention to modify the method of Chandler to include providing a record receptacle; providing archival quality recordation media; recording predetermined information on the recordation media; sealing the recordation media within the record receptacle; and embedding the record receptacle within a material of the burial vault as taught by Semon and including providing at least one groove on the record receptacle, engaging the groove with the material of the vault, and maintaining the position of the receptacle with respect to the vault as taught by Hayman in order to properly identify the

human remains that have been grounded for some time and to allow for pertinent personal information to be buried with the deceased. Moreover, the grooves in the receptacle would reinforce the bond between the record receptacle and the surrounding concrete material.

Furthermore, all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change to their respective functions, and the combination would have yielded predictable results of being able to securely embed a receptacle with information on the deceased to one of ordinary skill in the art at the time of the invention.

Regarding claim 18, Chandler et al., Semon and Hayman further disclose that any information regarding the deceased may be included in the scroll (Col 3, Ln 20-21). It would have been an obvious matter of design choice to include the burial location of the vault in the scroll to properly archive the vault. Moreover, where the only difference between a prior art product and a claimed product is printed matter that is not functionally related to the product, the content of the printed matter will not distinguish the claimed product from the prior art. *In re Ngai*, 367 F.3d 1336, 1339, 70 USPQ2d 1862, 1864 (Fed. Cir. 2004).

Regarding claim 19, Chandler et al., Semon and Hayman disclose the method steps discussed above, but does not disclose placing a deceased organic being within the burial vault and recording the identity of the deceased organic being as at least a portion of said predetermined information.

Semon further discloses that deceased bodies are placed in a burial vault and are buried with identification (Col 1, Ln 27-34).

It would have been obvious to a person having ordinary skill in the art at the time of the Applicant's invention to modify Chandler et al. already modified by Semon and Hayman to include the method of placing a deceased organic being within the burial vault and recording the identity of the deceased organic being as at least a portion of said predetermined information as an obvious and typical manner in which a burial vault with a recordation receptacle is used.

Regarding claim 20, Chandler et al., Semon and Hayman further disclose providing a cap (30) and using the cap to seal the receptacle per the modification by Semon.

Regarding claim 21, Chandler et al., Semon and Hayman further disclose providing the record receptacle and cap with mating mutually engageable threads (58, 66).

Regarding claim 22, Chandler et al., Semon and Hayman further disclose providing a water-tight seal between the receptacle and cap by virtue of the O-ring (74).

Regarding claim 23, Chandler et al., Semon and Hayman further disclose providing an O-ring (74) and sealing the receptacle and cap with the O-ring.

Regarding claim 29, Chandler et al., Semon and Hayman further disclose providing the record receptacle with a cylindrical shape.

Regarding claim 30, Chandler et al., Semon and Hayman further disclose recessing the record receptacle below the outer surface of the material of the burial vault (as shown in Figure 5 of Semon and in Col 2, Ln 64-68).

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chandler et al. (U.S. Patent No. 3,439,461) in view of Semon (U.S. Patent No. 4,697,316) and Hayman (U.S. Patent No. 5,503,088) as applied to claim 20 above, and further in view of Ollier (U.S. Patent No. 5,875,529).

Regarding claim 24, Chandler et al., Semon and Hayman disclose the method discussed above including sealing the cap with an O-ring, but do not disclose providing at least one groove in the surface of the cap and sealing the cap against the receptacle with an O-ring in the groove.

Ollier in Figure 6 discloses providing at least one groove in the surface of the cap with an O-ring (100) in the groove.

It would have been obvious to a person having ordinary skill in the art at the time of the Applicant's invention to modify the method of Chandler, Semon, and Hayman to include providing at least one groove in the surface of the cap with an O-ring in the groove as taught by Ollier to help retain the O-ring in place during installation. One skilled in the art could have combined the elements as claimed by known methods with no change to their respective functions, and the combination would have yielded predictable results of being able to minimize dislodging the O-ring from the cap when

sealing the record receptacle to one of ordinary skill in the art at the time of the invention.

Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chandler et al. (U.S. Patent No. 3,439,461) in view of Semon (U.S. Patent No. 4,697,316) and Hayman (U.S. Patent No. 5,503,088) as applied to claim 20 above, and further in view of Tomokazu et al. (U.S. Patent No. 4,630,993).

Regarding claims 26 and 27, Chandler et al., Semon and Hayman further disclose the method discussed above, but do not disclose providing an epoxy resin adhesive and bonding the record receptacle and the material of the vault with the epoxy resin adhesive.

It is old and well known that objects embedded or anchored in concrete can typically be cast in place, mechanically fastened or chemically fastened with adhesive. Nonetheless, Tomokazu et al. in Figure 8 and column 3, lines 3-6 discloses that objects can equivalently embedded into concrete via mechanically fastening, adhesively fastening or casting the object in place in advance.

It would have been obvious to a person having ordinary skill in the art at the time of the Applicant's invention to modify the method of Chandler, Semon, and Hayman to include providing an adhesive and bonding the record receptacle and the material of the vault with the adhesive as taught by Tomokazu et al. because it is a known equivalent means of embedding objects in place. One skilled in the art could have combined the elements as claimed by known methods with no change to their respective functions,

Art Unit: 3600

and the combination would have yielded predictable results of permanently embedding an object into concrete to one of ordinary skill in the art at the time of the invention.

Moreover, it would have been obvious to one having ordinary skill in the art at the time of invention to use an epoxy resin adhesive, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice and epoxy resin is a widely available structural adhesive with high bond strength. *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960)

Claims 87-93 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chandler et al. (U.S. Patent No. 3,439,461) in view of Semon (U.S. Patent No. 4,697,316) and Tomokazu et al. (U.S. Patent No. 4,630,993).

Regarding claims 87, 88, and 92, Chandler discloses a method of making a concrete burial vault.

Chandler does not disclose providing a record receptacle; providing archival quality recordation media; recording predetermined information on the recordation media; sealing the recordation media within the record receptacle; and embedding the record receptacle within a material of the burial vault, including providing an epoxy resin adhesive and bonding the record receptacle and the material of the vault with the epoxy resin adhesive.

Semon teaches providing a record receptacle on a burial vault; providing archival quality recordation media via scroll; recording predetermined information on the

recordation media; sealing the recordation media within the record receptacle; and embedding the record receptacle within a wall of the burial vault (Col 2, Ln 42-45 and Col 3, Ln 20-21).

It is old and well known that objects embedded or anchored in concrete can typically be cast in place, mechanically fastened or chemically fastened with adhesive. Nonetheless, Tomokazu et al. in Figure 8 and column 3, lines 3-6 discloses that objects can equivalently embedded into concrete via mechanically fastening, adhesively fastening or casting the object in place in advance.

It would have been obvious to a person having ordinary skill in the art at the time of the Applicant's invention to modify the method of Chandler to include providing a record receptacle; providing archival quality recordation media; recording predetermined information on the recordation media; sealing the recordation media within the record receptacle; and embedding the record receptacle within a material of the burial vault as taught by Semon and including providing an epoxy resin adhesive and bonding the record receptacle and the material of the vault with the epoxy resin adhesive as taught by Tomokazu et al. in order to properly identify the human remains that have been grounded for some time and to allow for pertinent personal information to be buried with the deceased. One skilled in the art could have combined the elements as claimed by known methods with no change to their respective functions, and the combination would have yielded predictable results of permanently embedding an object into concrete to one of ordinary skill in the art at the time of the invention because the use of adhesive to

embed objects into concrete as been known to be functionally equivalent to casting in place or mechanically fastening.

Moreover, it would have been obvious to one having ordinary skill in the art at the time of invention to use an epoxy resin adhesive, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice and epoxy resin is a widely available structural adhesive with high bond strength. *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

Regarding claim 89, Chandler et al., Semon and Tomokazu et al. further disclose that any information regarding the deceased may be included in the scroll (Col 3, Ln 20-21). It would have been an obvious matter of design choice to include the burial location o the vault in the scroll to properly archive the vault. Moreover, where the only difference between a prior art product and a claimed product is printed matter that is not functionally related to the product, the content of the printed matter will not distinguish the claimed product from the prior art. *In re Ngai*, 367 F.3d 1336, 1339, 70 USPQ2d 1862, 1864 (Fed. Cir. 2004).

Regarding claim 90, Chandler et al., Semon and Tomokazu et al. disclose the method steps discussed above, but does not disclose placing a deceased organic being within the burial vault and recording the identity of the deceased organic being as at least a portion of said predetermined information.

Semon further discloses that deceased bodies are placed in a burial vault and are buried with identification (Col 1, Ln 27-34).

It would have been obvious to a person having ordinary skill in the art at the time of the Applicant's invention to modify Chandler et al. already modified by Semon and Tomokazu et al. to include the method of placing a deceased organic being within the burial vault and recording the identity of the deceased organic being as at least a portion of said predetermined information as an obvious and typical manner in which a burial vault with a recordation receptacle is used.

Regarding claim 91, Chandler et al., Semon and Tomokazu et al. further disclose providing a cap (30) and using the cap to seal the receptacle per the modification by Semon.

Regarding claim 93, Chandler et al., Semon and Tomokazu et al. further disclose recessing the record receptacle below the outer surface of the material of the burial vault (as shown in Figure 5 of Semon and in Col 2, Ln 64-68).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schmidt (US 4488388) sleeve with groove for concrete; Witt et al. (US 754269) embedded case for tombstones; Hunter (US 6171161) cremation chambers; Brunner (US 5603401) storage container; Palmer (US 1531754) embedded concrete anchor for tombstones.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTINE T. CAJILIG whose telephone number is

Art Unit: 3600

(571)272-8143. The examiner can normally be reached on Monday - Thursday from 8am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Canfield can be reached on (571) 272-6840. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. T. C./
Examiner, Art Unit 3633
6/20/08

/Robert J Canfield/
Supervisory Patent Examiner, Art Unit 3635